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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 UNITED STATES OF AMERICA,)

14 Plaintiff,)

15 v.)

16 TSE THOW SUN,)

17 Defendant.)
18
19

No. CR 02 0106 MMC

PLEA AGREEMENT

20 I, Tse Thow Sun, and the United States Attorney's Office for the Northern District
21 of California (hereafter "the government") enter into this written plea agreement (the
22 "Agreement") pursuant to Rule 11(c)(1)(A) & (C) of the Federal Rules of Criminal
23 Procedure:

24 The Defendant's Promises

25 1. I agree to plead guilty to Count One of the captioned indictment charging
26 me with theft of trade secrets, in violation of 18 U.S.C. § 1832(a)(3). I agree that the
27 elements of the offense and the maximum penalties are as follows:

28 ///

PLEA AGREEMENT
CR 02 0106 MMC

FILED

APR X 9 2003

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 Elements of the Offense

2 (1) The defendant knowingly possessed information that he knew or had a firm
3 ~~(and the information was, in fact, a trade secret)~~ ^{RD 2} belief was a trade secret; (2) the defendant knew that the trade secret had been stolen,
4 appropriated, taken, or carried away without authorization; (3) the defendant knew or had
5 a firm belief that the information was a trade secret; (4) the defendant intended to convert
6 the trade secret to the economic benefit of someone other than the owner; (5) the
7 defendant intended or knew that the theft would injure the owner of the trade secret; and
8 (6) the trade secret was related to or was included in a product that was produced for or
9 placed in interstate or foreign commerce.

10 Maximum Penalty:

- | | | |
|------------------------|---------------------------------|---|
| 11 a. | Maximum prison sentence | 10 years |
| 12 b. | Maximum fine | \$250,000 or twice the gross gain
or the gross loss, whichever is
greater |
| 13 | | |
| 14 c. | Maximum supervised release term | five years |
| 15 d. | Mandatory special assessment | \$100 |
| 16 e. | Restitution | not applicable |
| 17 f. | Deportation | |

18 2. I agree that I am guilty of the offense to which I will plead guilty, and I
19 agree that the following facts are true:

20 In early 2002, I was an MIS employee of Online Interpreters in Chicago, Illinois
21 (hereafter "Online"). The company was in the business of providing real-time translation
22 services over the phone for a variety of clients who had non-English speaking customers.
23 On March 29, 2002, I met with Dennis Dracup, the President of Language Line Services,
24 a rival company based in Monterey, California. The meeting took place at a restaurant
25 near San Francisco International Airport. I had previously initiated contact with Mr.
26 Dracup by telephone and had offered to sell him confidential information about Online
27 Interpreters.

28 At the meeting on March 29, I provided Mr. Dracup with a laptop computer and a

1 hard drive that contained information I had copied from Online's computer system. I had
2 copied and taken this information from Online without Online's authorization. I provided
3 the laptop and hard drive to Mr. Dracup in exchange for payment of \$3 million which I
4 had requested.

5 The information that I stole from Online included key information about Online's
6 customers, interpreters, and finances. It also included information that can be properly
7 characterized as pertaining to Online's call routing infrastructure. The information
8 included the code for customized scripts used by Online for routing calls from customers
9 to interpreters, and a database used as part of the call routing system. These latter items
10 that constituted parts of the call routing infrastructure were trade secrets, as defined under
11 18 U.S.C. § 1839(3). That is, the information was information that Online had taken
12 reasonable measures to keep secret, and the information derived economic value from not
13 being generally known to, and not being readily ascertainable by, the public. This
14 information was an integral part of the service that Online provided to customers
15 nationwide.

16 I stole all of the information described above, including the call routing
17 infrastructure components, from Online and provided it to Mr. Dracup for my own
18 economic benefit and with the intention of causing economic injury to Online.

19 3. I agree to give up all rights that I would have if I chose to proceed to trial,
20 including the rights to a jury trial with the assistance of an attorney; to confront and cross-
21 examine government witnesses; to remain silent or testify; to move to suppress evidence
22 or raise any other Fourth or Fifth Amendment claims; to any further discovery from the
23 government; and to pursue any affirmative defenses and present evidence.

24 4. I agree to give up my right to appeal my conviction, the judgment, and
25 orders of the Court. I also agree to waive any right I may have to appeal my sentence.

26 5. I agree not to file any collateral attack on my conviction or sentence,
27 including a petition under 28 U.S.C. §2255, at any time in the future after I am sentenced,
28 except for a claim that my constitutional right to the effective assistance of counsel was

1 violated.

2 6. I agree not to ask the Court to withdraw my guilty plea at any time after it is
3 entered, unless the Court declines to accept the sentence agreed to by the parties. I agree
4 that the government may withdraw from this agreement if the Court does not accept the
5 agreed upon sentence set out below.

6 7. I agree that the Sentencing Guidelines should be calculated as follows, and
7 that I will not ask for any other adjustments to or reductions of the offense level. I
8 reserve the right to make a motion for downward departure:

- | | | | |
|----|----|---|------------------|
| 9 | a. | Base Offense Level, U.S.S.G. § 2B1.1(a): | 6 |
| 10 | b. | Specific offense characteristics: § 2B1.1(b)
(As of the time of the plea agreement, the
11 parties believe that the loss is at least
12 \$120,000 and not more than \$200,000) | to be determined |
| 13 | c. | Adjustment for abuse of position of trust or
use of special skill: § 3B1.3 | to be determined |
| 14 | d. | Acceptance of responsibility:
(If I meet the requirements of
15 U.S.S.G. § 3E1.1) | minus 3 |
| 16 | e. | Adjusted offense level | to be determined |

17 8. I agree that an appropriate disposition of this case is as follows: Not less than
18 15 months, and not more than 18 months, imprisonment; five years of supervised release,
19 with conditions to be established by the Court; a \$10,000 fine; and \$100 special
20 assessment. I agree that I will make a good faith effort to pay any fine, forfeiture or
21 restitution I am ordered to pay. If I have the ability to do so, I will pay the fine before
22 completion of the term of imprisonment. Before or after sentencing, I will, upon request
23 of the Court, the government, or the U.S. Probation Office, provide accurate and
24 complete financial information, submit sworn statements and give depositions under oath
25 concerning my assets and my ability to pay, surrender assets I obtained as a result of my
26 crimes, and release funds and property under my control in order to pay any fine,
27 forfeiture, or restitution. I agree to pay the special assessment at the time of sentencing.

28 9. I agree that I will not contest deportation.

1 10. I agree not to commit or attempt to commit any crimes before sentence is
2 imposed or before I surrender to serve my sentence. I also agree not to violate the terms
3 of my pretrial release (if any); intentionally provide false information to the Court, the
4 Probation Office, Pretrial Services, or the government; or fail to comply with any of the
5 other promises I have made in this Agreement. I agree that, if I fail to comply with any
6 promises I have made in this Agreement, then the government will be released from all of
7 its promises below, but I will not be released from my guilty plea.

8 11. I agree that this Agreement contains all of the promises and agreements
9 between the government and me, and I will not claim otherwise in the future.

10 12. I agree that this Agreement binds the U.S. Attorney's Office for the
11 Northern District of California only, and does not bind any other federal, state, or local
12 agency.

13 The Government's Promises

14 13. The government agrees to move to dismiss any open charges pending
15 against the defendant in the captioned indictment at the time of sentencing.

16 14. The government agrees not to file or seek any additional charges against the
17 defendant that could be filed as a result of the investigation that led to the captioned
18 indictment.

19 15. The government agrees that the appropriate sentence in this case should be
20 as set forth in paragraph 8 above if that sentence is within the guideline range determined
21 by the Court, unless the defendant violates the agreement as set forth in paragraph 10
22 above or fails to accept responsibility.

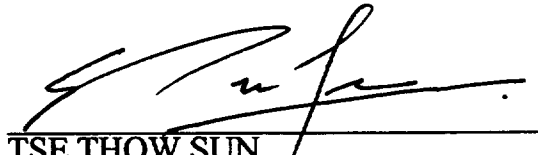
23 The Defendant's Affirmations

24 16. I confirm that I have had adequate time to discuss this case, the evidence,
25 and this Agreement with my attorney, and that he has provided me with all the legal
26 advice that I requested.

27 17. I confirm that while I considered signing this Agreement, and at the time I
28 signed it, I was not under the influence of any alcohol, drug, or medicine.

1 18. I confirm that my decision to enter a guilty plea is made knowing the
2 charges that have been brought against me, any possible defenses, and the benefits and
3 possible detriments of proceeding to trial. I also confirm that my decision to plead guilty
4 is made voluntarily, and no one coerced or threatened me to enter into this agreement.

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6
7 Dated: 4-9-03


TSE THOW SUN
Defendant

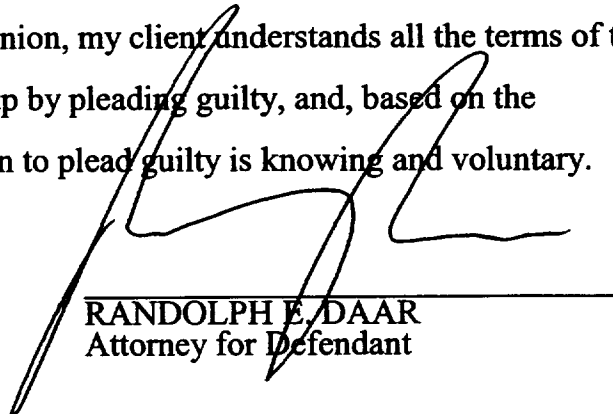
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10 KEVIN V. RYAN
United States Attorney

11
12 Dated: 4/9/03


SUSAN E. BADGER
Assistant United States Attorney

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15 I have fully explained to my client all the rights that a criminal defendant has and
16 all the terms of this Agreement. In my opinion, my client understands all the terms of this
17 Agreement and all the rights he is giving up by pleading guilty, and, based on the
18 information now known to me, his decision to plead guilty is knowing and voluntary.

19
20 Dated: 4-9-03


RANDOLPH E. DAAR
Attorney for Defendant